

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 15, 2002

DIVISION TWO

B147721 DeFlores (Not for Publication)
v.
Brent B., et al.

The appeals are ordered dismissed. RPI's are awarded costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

B141842 Tocano (Not for Publication)
v.
Toscano and Fox

The judgment is reversed as to the trial court's invalidation of the September 26, 1994 lien on the Broadway property, the court's validation of the May 30, 1994 lien on the Broadway property, and the court's conclusion that it lacked jurisdiction to determine the validity of other liens obtained by Fox. It is otherwise affirmed. The matter is remanded for further proceedings consistent with this opinion. Appellant Fox is ordered to pay costs of appeal to respondent Sandra R. Toscano and appellant Oscar E. Toscano.

Doi Todd, J.

We concur: Nott, Acting P.J.
Cooper, J. (Assigned)

DIVISION TWO (Continued)

B153265 American Federation of State, (Not for Publication)
County & Municipal Employees
v.
S.C.L.A.
Morshedian

This is a proper case for issuance of a peremptory writ in the first instance.
(Code Civ. Proc., § 1088; Palma v. U.S. Industrial Fasteners, Inc. (1984) 36
Cal.3d 171, 177-180.)

Let a writ of mandate issue, directing the respondent court to vacate its
order of August 3, 2001, granting judgment for real party in interest, and to
issue a new order, granting judgment for petitioners. Petitioners to recover
their costs.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B151669 Washington Mutual Bank FA
v.
Superior Court, Los Angeles County
(Guilford, r.p.i.)

Filed order modifying opinion. (No change in the judgment)

DIVISION THREE

B147989 People (Not for Publication)
v.
Blanton

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
 Kitching, J.

DIVISION THREE (Continued)

B147958 People (Not for Publication)
v.
Gardner

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

B140684 Dain & Li (Not for Publication)
v.
Grace Wang, et al.
En Liung Huang

The trial court's judgment, granting Dain & Li an award in quantum merit jointly against Pioneer and Wang, personally, is affirmed. We remand, however, to determine whether Pioneer and Wang are entitled to any offsetting credits, up to \$50,000, if any, against the judgment of \$99,622.82. Costs on appeal are to be borne equally by the parties.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B146711 Hector R. Cunningham (Not for Publication)
v.
City of Los Angeles, Department of Water and Power

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

B143373 Stanley Zicklin (Not for Publication)
 v.
 Emanuel Weintraub

The judgment is reversed as to the causes of action for declaratory and injunctive relief and breach of fiduciary duty, and remanded. Upon remand, the trial court is directed to (1) enter an order summary adjudicating in favor of Zicklin on his cause of action for declaratory relief and injunctive relief, (2) enter a new order denying the motion for summary adjudication in favor of Weintraub on Zicklin's cause of action for breach of fiduciary duty, and (3) conduct such further proceedings as may be necessary or appropriate and consistent with the views expressed herein. Zicklin is awarded his costs on appeal.

Croskey, J.

We concur: Klein, P.J.
 Kitching, J.

B144778 Ozra Hajian (Not for Publication)
 v.
 Morteza Soheyly

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, J.

We concur: Klein, P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B145197 Fireman's Fund Insurance Company (Not for Publication)
B149303 v.

Whirlpool Corporation, et al.
Dayco Products, Inc.

The judgment in B145197, and post-judgment order in B149303, awarding Fireman's Fund Insurance Company its attorney fees against Dayco, are affirmed. Whirlpool Corporation, Omega Products, Inc., and Fireman's Fund Insurance Company all are awarded their costs on appeal against Dayco Products, Inc.

Croskey, J.

We concur: Klein, P.J.
 Kitching, J.

B153002 City of Los Angeles (Certified for Publication)
v.
Superior Court, Los Angeles County
(Cinton Davenport, r.p.i.)

The order to show cause previously issued is hereby discharged. A peremptory writ of mandate shall issue directing the trial court to vacate its September 6, 2000, order refusing to allow the Deputy City Attorney assigned to this case to review the affidavit filed by Davenport's counsel in support of Davenport's Pitchess motion and to instead an order allowing the City Attorney to review, under protective court order, the affidavit. Should the City Attorney wish to file a response or opposition regarding the contents of the affidavit, it must do so under seal to the trial court. After the City Attorney has had the opportunity to review and respond to Davenport's counsel's affidavit, the court shall take such further action as is appropriate and in accordance with the views expressed herein. The stay of proceedings previously issued shall be vacated as of the date of the remittitur herein. Each party is to bear its own cost.

Croskey, J.

We concur: Klein, P.J.
 Kitching, J.

DIVISION THREE (Continued)

B148994 People v. Miles (Not for Publication)

That portion of the judgment as to defendant's conviction of burglary and of petty theft is affirmed. That portion of the judgment that involves whether defendant had suffered prior convictions is reversed, and defendant's conviction of petty theft with a prior is reversed. So, too, the sentence enhancement based on prior convictions is vacated, and this matter is remanded to the trial court, which is directed to vacate its order denying the motion to bifurcate, to enter an order granting such motion, and to then hold a limited trial on the issue of whether defendant suffered the alleged prior convictions. Following the results of that trial, the trial court should determine if defendant was convicted of petty theft with a prior, and then recalculate defendant's sentence accordingly. Any subsequent appeal in this case shall be limited to issues arising from the proceedings on remand.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B149582 Raquel Holmes (Not for Publication)
v.
United Independent Taxi, et al.

The summary judgment from which plaintiff has appealed is reversed and the cause is remanded for further proceedings consistent with the views expressed herein. Costs on appeal to plaintiff.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION THREE (Continued)

B153554 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Marisela G.

The appeal is dismissed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION SIX

B151626 The Board of Trustees of the California State University
B153690 v.
 Bello's Sporting Goods

Filed order consolidating above captioned appeals.

DIVISION EIGHT

B155230 Film Finances, Inc. (Not for Publication)
v.
Superior Court, Los Angeles County
(The Fuji Bank, Limited, et al., r.p.i.)

The Court:

We have followed the procedures and given the notice described in *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-183. No factual issues are disputed, the legal error is clear, and the matter should be expedited to allow arbitration of the dispute. Thus, a peremptory writ in the first instance is appropriate. (§ 1088; *Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1222-1223; *Ng v. Superior Court* (1992) 4 Cal.4th 29, 35.) Film Finances' petition is granted. Let a peremptory writ of mandate issued directing the superior court to vacate its order of November 29, 2001 staying arbitration between Fuji and Film Finances. Film Finances is awarded its costs.

Cooper, P.J., Rubin, J., Boland, J.

DIVISION EIGHT (Continued)

B146884 People (Not for Publication)
v.
Sanchez

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.